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Letter dated 16 May 2014 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I would be grateful if the present letter and its annexes could be circulated to the members of the Security Council.

(*Signed*) Theodor **Meron**

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Annex I

[Original: English and French]

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 November 2013 to 15 May 2014

1. The present report, the fourth in a series, is submitted pursuant to Security Council resolution 1966 (2010) of 22 December 2010, by which the Council established the International Residual Mechanism for Criminal Tribunals and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.

I. Introduction

2. The Security Council, by its resolution 1966 (2010), established the International Residual Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals.

3. The Council emphasized that the Mechanism should be a small, temporary and efficient structure and determined that the Mechanism shall operate for an initial period of four years, and subsequently for periods of two years, following reviews of its progress, unless the Council decides otherwise.

4. In accordance with its mandate, and as set forth below, the Mechanism has assumed responsibility for many functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including with regard to a range of judicial activities, the enforcement of sentences, the protection of victims and witnesses and the management of archives. As the Tribunals complete their work and progressively downsize their operations, the Mechanism is relying less on the support services of the two Tribunals and is in the process of establishing its own small self-standing administration. The Mechanism continues to work closely with Tribunal principals and staff to ensure a smooth transition of the remaining functions and services and the harmonization and adoption of best practices.

II. Structure and organization of the Mechanism

5. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals (the President, the Prosecutor and the Registrar), who have responsibility over two branches, one located in Arusha and the other in The Hague. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions inherited from the International Criminal Tribunal for Rwanda. The branch in The Hague

commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

Organs and principals

6. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: (a) the Chambers; (b) the Prosecutor; and (c) the Registry, to provide administrative services for the Mechanism.

7. The President of the Mechanism is Judge Theodor Meron, the Prosecutor is Mr. Hassan Bubacar Jallow and the Registrar is Mr. John Hocking. All three principals were appointed in 2012 for terms of four years.

8. President Meron, Prosecutor Jallow and Registrar Hocking are all currently serving in two positions: President Meron and Registrar Hocking are, respectively, also the President and Registrar of the International Tribunal for the Former Yugoslavia; and Prosecutor Jallow is also the Prosecutor for the International Criminal Tribunal for Rwanda. Such double-hatting has facilitated a coordinated transfer of functions from the Tribunals and is cost-effective, since each principal receives only one salary.

The branches

9. On 26 November 2013, the United Nations and the Government of the United Republic of Tanzania signed an agreement concerning the establishment and functioning of the Mechanism in Arusha. The agreement, which was drafted and negotiated largely by the Office of Legal Affairs of the Secretariat, entered into force on 1 April 2014 and also applies to the International Criminal Tribunal for Rwanda. It is expected that a similar agreement will soon be concluded with the Netherlands for the branch in The Hague; until that time, the headquarters agreement of the International Tribunal for the Former Yugoslavia applies provisionally to the Mechanism.

10. The Arusha branch is currently co-located with the International Criminal Tribunal for Rwanda but preparations for the Mechanism's new permanent premises in Arusha are advancing. Construction of the premises was approved by the General Assembly in its resolution 67/244 B of 12 April 2013. The budget for the project, which was included in the Mechanism's budget proposal, was approved by the Assembly on 27 December 2013.

11. On 5 February 2014, the United Nations and the Government of the United Republic of Tanzania signed an agreement concerning the construction of the premises, which is supplementary to the headquarters agreement. In addition to making a generous donation of land, the Government will construct access roads and the required facilities to connect utilities to the site. The Mechanism is grateful for the continued excellent cooperation with the Government of the United Republic of Tanzania.

12. The construction project is on schedule and in line with the overall timetable approved by the General Assembly. It is expected that the facilities will be occupied by January 2016. Procurement of the architectural and engineering consultancy services for the new facilities began in May 2013 under the Financial Regulations and Rules of the United Nations and has now been completed. The United Nations and the selected architectural and engineering consultancy services firm signed a

contract on 26 February 2014. The Mechanism provides regular updates to the General Assembly through annual progress reports on the construction.

13. On 1 January 2014, the Arusha branch of the Mechanism assumed responsibility for the small sub-office in Kigali, previously administered by the International Criminal Tribunal for Rwanda. The sub-office is staffed by members of the Mechanism's Witness Support and Protection Unit, who provide protection and support services to witnesses, as well as by members of the Office of the Prosecutor's fugitive-tracking team.

14. The branch of the Mechanism in The Hague will be co-located with the International Tribunal for the Former Yugoslavia for the period in which they will overlap. Plans for its eventual location are under consideration.

Administration and staffing

15. During the 2012-2013 biennium, administrative services such as human resources, finance, budget, procurement, logistics, security and information technology services were provided to the Mechanism by both Tribunals, under the coordination of the Registry of the Mechanism.

16. The Tribunals' ability to provide such support during the 2014-2015 biennium is decreasing owing to their progressive downsizing. As a result, the Tribunals and the Mechanism have agreed on the basic requirements for a small self-standing Mechanism administration, and these requirements were included in the 2014-2015 budget for the Mechanism approved by the General Assembly on 27 December 2013. The transfer of administrative functions to the Mechanism began on 1 January 2014 and will be implemented gradually over the coming biennium, in step with the downsizing of the Tribunals and with a view to ensuring efficiency, accountability and consistency.

17. On 1 January 2014, the Human Resources Section of the International Tribunal for the Former Yugoslavia assumed responsibility for recruitment and staff administration for Mechanism staff located in both branches.

18. As at 15 May 2014, 120 posts in the two branches had been filled, of which 34 were in the Office of the Prosecutor and 86 in the Registry, including a small number of staff to serve in the Mechanism's Chambers and assist with the ongoing judicial work.

19. The Mechanism's staff includes nationals of the following 46 States: Albania, Australia, Belgium, Bosnia and Herzegovina, Bulgaria, Burundi, Cameroon, Canada, China, Colombia, Croatia, Cyprus, Democratic Republic of the Congo, Denmark, Fiji, France, Germany, Greece, Ireland, Italy, Kenya, Republic of Korea, Latvia, Lebanon, Liberia, Malawi, Malaysia, Mali, Nepal, Netherlands, New Zealand, Niger, Pakistan, Poland, Rwanda, Senegal, Serbia, Spain, Sudan, Sweden, the former Yugoslav Republic of Macedonia, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Zimbabwe.

20. Approximately 88 per cent of those recruited were current or former staff of the Tribunals. Fifty-six per cent of staff in the Professional category are women — surpassing the Secretary-General's gender parity goals and exceeding the average of

42 per cent in the United Nations — and women comprise 53 per cent of all staff. In addition, the Mechanism has appointed a gender and sexual harassment focal point.

Legal and regulatory framework

21. The Mechanism has established a basic structure to govern its activities, mindful of the need to develop rules, procedures and policies that harmonize and build upon the best practices of both Tribunals.

22. On 29 November 2013, the Prosecutor promulgated two regulations, one entitled "Standards of professional conduct of prosecution counsel" and a second, on the support of investigations or judicial proceedings of third parties in connection with the Rwandan genocide or the conflicts in the former Yugoslavia, entitled "Requests for assistance by national authorities or international organizations to the Prosecutor". On 24 April 2014, the President, following consultations with the Prosecutor and the Registrar pursuant to rule 23 of the Rules of Procedure and Evidence, issued a revised version of the "Practice direction on the procedure for designation of the State in which a convicted person is to serve his/her sentence of imprisonment". Additional practice directions, regulations and policies are being developed.

III. Judicial activities

23. During the reporting period, the Mechanism handled a significant amount of judicial work. At the Arusha branch, Judge Vagn Joensen, in his capacity as single judge, rendered decisions denying two post-appeal requests for the initiation of false testimony and contempt proceedings and one post-appeal request for assignment of counsel arising from the *Niyitegeka* case. Judge Joensen also issued one decision and one order with respect of two confidertial matters and ruled on six motions from the Prosecutor in relation to cases involving fugitives, as described below.

24. At the branch in The Hague, Judge Bakone Justice Moloto issued three decisions concerning allegations of contempt and Judge Burton Hall issued a decision on a confidential matter.

25. The Mechanism received a significant number of requests for the variation of protective measures for witnesses. At the Arusha branch, Judge Joensen rendered six decisions in relation to eight applications and issued two orders in relation to two pending requests. At the branch in The Hague, Judge Moloto issued six orders and 24 decisions in relation to 20 applications or requests. Certain applications were referred back, in part, to the President of the Mechanism for further action.

26. During the reporting period, the President of the Mechanism ruled on two requests for administrative review of a decision by the Registrar of the Mechanism, one of which was confidential. In accordance with his authority in the area of enforcement of sentences, the President of the Mechanism also issued three decisions granting early release, a decision provisionally recognizing a sentence remission, three orders designating an enforcement State, and seven other confidential decisions and orders. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber, who are judges of the Mechanism, as applicable.

27. In the *Uwinkindi* and *Munyagishari* cases, which have been transferred to Rwanda for prosecution, the President dismissed without prejudice requests for revocation on 12 and 13 March 2014, respectively. On 28 March 2014, the President dismissed as moot a related motion from Jean Uwinkindi.

28. The Appeals Chamber remained seized of one appeal from judgement, concerning the case of Augustin Ngirabatware. Mr. Ngirabatware was appealing against the trial judgement rendered on 20 December 2012 and issued in writing on 21 February 2013. Mr. Ngirabatware filed his notice of appeal on 9 April 2013 and the briefing was completed on 13 August 2013. A status conference in the case was held on 12 February 2014. The President, in his capacity as pre-appeal judge, and the five-judge bench in the *Ngirabatware* appeal ruled on various preliminary motions. The Appeals Chamber was seized of three motions concerning the admission of additional evidence on appeal. Preparations for a hearing, anticipated to be held in the first half of the year, were under way. A judgement was expected before the end of 2014.

29. The Appeals Chamber was also seized of a request for review pursuant to rule 146 of the Rules of Procedure and Evidence filed by Milan Lukić on 6 February 2014. The briefing in that case was completed. The President, in his capacity as either pre-review judge or as judge of the Chamber in the *Lukić* case, dealt with various preliminary motions and other confidential requests. In addition, the Appeals Chamber was seized of a request filed by Eliezer Niyitegeka on 29 April 2014 for the assignment of counsel to assist him with an anticipated request for review. Two additional confidential matters and related motions were also pending before the Appeals Chamber.

30. During the reporting period, the efficiency of the Mechanism's judicial activities was improved by the recruitment of a small team of experienced legal staff, all of whom had served at either the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia before joining the Mechanism.

IV. Victims and witnesses

31. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements, the Mechanism is responsible for providing support and protection to thousands of witnesses who have testified in cases completed by the two Tribunals.

32. The Witness Support and Protection Unit is fully operational in both branches of the Mechanism. Consistent with judicial protection orders and in close collaboration with national authorities or other United Nations entities, the Unit ensures the safekeeping of confidential witness information and provides security to witnesses by undertaking threat assessments and coordinating responses to security requirements.

33. In response to requests for the rescission, variation or augmentation of witness protective measures, consultations between the Unit and witnesses intensified over the reporting period, as a result of both the increasing frequency of requests and the number of witnesses involved per request. Moreover, the Unit was required to contact some witnesses more than once in a relatively short period in response to

requests in different cases before national courts or in different phases of the proceeding. With the passage of time, locating and verifying the identity of some witnesses started to present new challenges.

34. The Mechanism also provided ongoing support services to witnesses. At the Kigali sub-office, for example, the Mechanism continued to provide medical and psychosocial services to witnesses residing in Rwanda, particularly for individuals suffering from psychological trauma and HIV/AIDS patients, many of whom contracted the virus as a result of crimes committed against them during the genocide.

35. The witness protection teams at the two branches continued to exchange best practices for the development of policies and to establish a common information technology platform for their respective databases. Those efforts aimed to maximize operational efficiencies at both branches and ensure that the Mechanism preserves and develops the best practices established by the two Tribunals.

V. Fugitives and trial readiness

36. On 1 July 2012, in accordance with Security Council resolution 1966 (2010) and the statute of the Mechanism, the responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism. Specifically, the Council urged all States, particularly those where fugitives are suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible. On 16 April 2014, in its resolution 2150 (2014), the Council repeated its call upon all States to cooperate with the Mechanism, among others, in the arrest and prosecution of the remaining fugitives.

37. Nine individuals indicted by the International Criminal Tribunal for Rwanda continue to be fugitives (in contrast, no one indicted by the International Tribunal for the Former Yugoslavia remains at large). The arrest and prosecution of these nine individuals remains a top priority for the Mechanism. The President and Prosecutor, with the support of the Registrar, have agreed to work closely on the associated political issues.

38. Of the nine fugitives, the Mechanism retains jurisdiction over three: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the following six fugitives have been referred to Rwanda for trial: Charles Sikubwabo, Charles Ryandikayo, Ladislas Ntaganzwa, Phénéas Munyarugarama, Fulgence Kayishema and Aloys Ndimbati.

39. In April 2013, at the request of the Prosecutor, Judge Joensen, the duty judge at the Arusha branch, vacated the warrants of the International Criminal Tribunal for Rwanda for the arrest of Mr. Kabuga, Mr. Bizimana and Mr. Mpiranya, replacing them with public warrants for their arrest and transfer to the Mechanism. In May 2014, Judge Joensen similarly vacated the Tribunal warrants for the arrests of Mr. Sikubwabo, Mr. Ryandikayo, Mr. Ntaganzwa, Mr. Munyarugarama, Mr. Kayishema and Mr. Ndimbati, replacing them with Mechanism warrants for their arrest and transfer to the Rwandan authorities. These warrants and orders are public and addressed to all Member States, which are obliged, under article 28 of the statute of the Mechanism, to comply with the requests without undue delay.

40. The Prosecutor intensified his efforts to apprehend the fugitives, including by engaging in efforts designed to raise the profile of the issue. The Mechanism website, for example, now includes a page highlighting the search for fugitives and integrating up-to-date information from the Office of the Prosecutor and a newly created fugitives poster.

41. Consistent with its commitment to efficiency, the Mechanism continues to work to ensure that it is prepared to commence a trial when a fugitive is apprehended. Pursuant to article 15 (4) of the statute of the Mechanism, the Registrar is ensuring that the necessary facilities and services will be in place when required, developing the necessary policies and procedures and preparing a roster of qualified potential staff. The Prosecutor is preparing a similar roster of potential staff for his office, in accordance with article 14 (5) of the statute.

VI. Cases referred to national jurisdictions

42. The Mechanism, pursuant to article 6 (5) of its statute, is responsible for monitoring cases referred by the two Tribunals to national courts, with the assistance of international and regional organizations and bodies.

43. Of the accused involved in cases of the International Criminal Tribunal for Rwanda that have been referred to Rwanda, two — Jean Uwinkindi and Bernard Munyagishari — have been apprehended and transferred to Kigali. The trial in the *Uwinkindi* case commenced on 14 May 2014 and the *Munyagishari* case is in the pretrial phase. Two additional cases, *Bucyibaruta* and *Munyeshyaka*, were referred to France in November 2007; both are still in the investigative phase.

44. During the reporting period, the Mechanism monitored those four cases with interim monitors provided by the International Criminal Tribunal for Rwanda and the Mechanism. The monitoring reports in the *Uwinkindi*, *Munyagishari*, *Bucyibaruta* and *Munyeshyaka* cases are available on the Mechanism's website (www.unmict.org).

45. On 27 March 2014, the Mechanism signed two memorandums of understanding with the International Senior Lawyers Project on the monitoring of the cases referred to Rwanda and to France for trial. The Project is a non-profit organization that provides the services of highly skilled and experienced lawyers to promote human rights and the rule of law worldwide, including through the monitoring of trials. While the memorandum of understanding concerning France will become effective at a future date to be agreed by the parties, the memorandum of understanding concerning Rwanda became effective on the date of signature. The Project is assisting the Mechanism in identifying pro bono monitors to observe and report on progress made in the proceedings in Rwanda.

46. The *Vladimir Kovačević* case, which was before the International Tribunal for the Former Yugoslavia, was referred to Serbia in March 2007. The proceedings were subsequently suspended following a determination that the accused was unfit to stand trial. The Mechanism continues to monitor any change of status in this referred case.

VII. Enforcement of sentences

47. In accordance with article 25 of the statute of the Mechanism, the President has assumed jurisdiction over enforcement issues related to the Mechanism and the two Tribunals, including the authority to designate the States in which convicted persons are to serve their sentence, to supervise the enforcement of sentences and to decide on requests for pardon or commutation of sentence.

48. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of Member States that have concluded enforcement-of-sentence agreements or indicated their willingness to accept convicted persons under another arrangement. Agreements concluded by the two Tribunals remain in force for the Mechanism. The Mechanism is actively working to secure additional agreements so as to increase its enforcement capacity and welcomes the cooperation of States in this regard.

49. The Mechanism is also reviewing existing agreements with States currently enforcing sentences and has prepared and submitted for the consideration of some of the States a new model agreement that provides greater clarity on financial matters and the respective responsibilities of the enforcing States and the Mechanism.

50. As at 15 May 2014, 29 persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences in either Mali (16) or Benin (13). During the reporting period, one convicted person was transferred to Benin. Two additional convicted persons are at the United Nations detention facility in Arusha, awaiting transfer to an enforcement State.

51. In addition, 18 persons convicted by the International Tribunal for the Former Yugoslavia are currently serving sentences in 12 States: Austria (2), Belgium (1), Denmark (3), Estonia (3), Finland (1), France (1), Germany (2), Italy (1), Norway (1), Poland (1), Portugal (1) and Sweden (1). During the reporting period, two convicted persons were transferred to Estonia and Poland, respectively, for the enforcement of their sentences. Five convicted persons are at the United Nations detention unit in The Hague, awaiting transfer to an enforcement State.

52. The Mechanism continues to work with different stakeholders to implement the recommendations of the independent prison management expert who assessed the security needs of the prisons in Benin and Mali. The Mechanism has also been working, in coordination with the national authorities, to address the recommendations of the relevant inspecting body charged with examining the conditions of detention in the various enforcement States.

53. During the reporting period, the Mechanism closely monitored the security situation in Mali and continued to receive advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali.

54. To increase its enforcement capacity, the Mechanism has been supporting efforts by the International Criminal Tribunal for Rwanda to refurbish cells in a prison in Senegal. The Mechanism is grateful to the Government of Senegal and looks forward to its continued cooperation in this regard.

VIII. Archives and records

55. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two Tribunals. Pursuant to article 27 (2) of the statute, the archives of the Tribunals are to be co-located with the respective branches of the Mechanism.

56. The archives of the Tribunals include materials concerning: investigations, indictments and court proceedings; work relating to the detention of accused persons, the protection of witnesses and the enforcement of sentences; and documents from States, other law enforcement authorities, international and non-governmental organizations and the general public. The materials consist of documents, maps, photographs, audiovisual recordings and objects.

57. The Mechanism Archives and Records Section has been tasked to preserve these materials and to facilitate the widest possible access to them while ensuring the continued protection of confidential information, including information concerning protected witnesses.

58. During the reporting period, the Section continued to work in close cooperation with the Tribunals on the preparation and transfer of physical records and archives for custody by the Mechanism. In Arusha, following its handover of three temporary records repositories during the previous reporting period, the International Criminal Tribunal for Rwanda transferred approximately 25 per cent of its records of long-term or permanent value for custody by the Section. In The Hague, substantial quantities of records were still being prepared for transfer, following training of managers and staff of the International Tribunal for the Former Yugoslavia. The Section is in the final stages of developing a new system for managing the process of transferring records and archives to the Mechanism, which will make the transfer process more efficient and effective.

59. The Section has contributed to the planning of the new Mechanism premises in Arusha by preparing functional requirements, specifications and estimates of resource requirements for the building that will house the archives. The Section is also developing strategies and identifying tools for ensuring the secure storage of the digital records, to enable their long-term preservation and access for current and future generations.

60. The Section continues to develop record-keeping policies and systems for the Mechanism, including a comprehensive electronic documents and records management system for non-judicial records that will improve record-keeping and facilitate the sharing of information between the two branches of the Mechanism in the interest of enhancing operational efficiency and effectiveness.

IX. Cooperation of States

61. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate with it in relation to the investigation and prosecution of persons covered under the statute, as well as with orders and requests for assistance in relation to cases before the Mechanism. The Mechanism, like the two Tribunals, is dependent upon the cooperation of States.

62. The arrest and surrender of the remaining fugitives is a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations being conducted by the Prosecutor, and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in this respect. Likewise, the Mechanism relies on the cooperation of States for the enforcement of sentences.

63. The Mechanism has also sought to promote communication and cooperation with the Governments of the affected States and to keep relevant officials in those States updated on the transition of responsibilities from the Tribunals to the Mechanism and the activities of the Mechanism. After the principals and representatives of the Mechanism and the International Criminal Tribunal for Rwanda carried out a joint mission to Rwanda in November 2013, Mechanism officials met with Rwandan authorities on subsequent occasions to discuss areas of mutual interest. Representatives of the Mechanism, including the President, have also visited areas of the former Yugoslavia to engage with Government officials, attend public events and meet with victims' groups. In addition, the President of the Mechanism has met with State officials and victims' groups from the former Yugoslavia in The Hague.

X. Assistance to national jurisdictions

64. The Mechanism routinely receives requests by national authorities or parties to national proceedings for assistance in relation to national investigations and trials of individuals charged in relation to the genocide in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, both branches of the Mechanism received and considered numerous requests for assistance by national jurisdictions, including requests to question detained persons and to vary the protective measures of witnesses and disclose their testimony and evidence (as discussed in sect. III on judicial activities above). Comprehensive information and guidance for those who wish to request assistance is available on the Mechanism's website.

XI. External relations

65. The principals and officials of the Mechanism have provided briefings to diplomatic representatives of Member States in the United Republic of Tanzania and the Netherlands and have held discussions with interested groups on the mandate and priorities of the Mechanism.

66. On the solemn occasion of the twentieth anniversary of the genocide in Rwanda, the Prosecutor and Mechanism representatives participated in official events in Kigali and in a commemoration ceremony held in Arusha on 10 April 2014 organized by the International Criminal Tribunal for Rwanda.

67. The Mechanism's mandate, as well as essential information about its functions and operations, are available from the website of the Mechanism. The popularity of the website increased by 35 per cent over the previous reporting period, reaching approximately 70,000 page views during the current reporting period.

68. The website has content in English, French, Kinyarwanda and Bosnian/Croatian/Serbian, and the Mechanism is taking additional steps to ensure that key

information on the Mechanism is accessible to individuals in Rwanda and the States of the former Yugoslavia, on its multilingual website and elsewhere. For example, in cooperation with the International Criminal Tribunal for Rwanda, the Mechanism has recently registered 38 judgements translated into Kinyarwanda as official judicial records and is currently exploring ways to make these records accessible to an even greater proportion of the people of Rwanda.

69. The website features links to the public records databases of the Tribunals, as well as links to all public filings of the Mechanism. A new online case law research tool, the Tribunals' Case Law Database, was launched in December 2013 (http://unmict.org/cld.html). It has a user-friendly research interface that simplifies access to the case law of the Tribunals and the Mechanism and allows for quicker, more productive searches of the more than 1,800 entries. The ever-expanding database will be an invaluable aid to professionals in the field of international criminal law.

70. The Mechanism's web platform was also used to develop and host a dedicated website for the International Criminal Tribunal for Rwanda commemorating the twentieth anniversary of the Rwandan genocide, in English, French and Kinyarwanda (www.unmict.org/ictr-remembers/).

71. The Mechanism's capacity to fulfil its mandate in relation to the provision of access to information was increased when it took over the management of the legal library of the International Criminal Tribunal for Rwanda on 1 January 2014. The resource centre, which has one of the best international criminal law collections in East Africa, provides research and reference support to Tribunal and Mechanism staff, as well as external users, including the general public. The Mechanism is committed to providing the same level of support to users while decreasing resource implications through enhanced efficiency of operations, including placing greater emphasis on digital research and reference services.

XII. Conclusion

72. Consistent with Security Council resolution 1966 (2010) and its mandate, the Mechanism is carrying out its work in both Arusha and The Hague. In doing so, the Mechanism has received cooperation and assistance from both Tribunals and from other offices and organizations, including the Office of Legal Affairs of the Secretariat. The Mechanism remains mindful of the Security Council's injunction that it be a small and efficient organization, and it will continue to take steps to ensure the fulfilment of its mandate consistent with this injunction.

Annex II

[Original: English and French]

Progress report of Justice Hassan Bubacar Jallow, Prosecutor of the International Residual Mechanism for Criminal Tribunals, for the period from 16 November 2013 to 15 May 2014

I. Introduction

1. The present report, the fourth of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, covering the period from 16 November 2013 to 15 May 2014, is submitted pursuant to paragraph 16 of Security Council resolution 1966 (2010) and article 32 (2) of the statute of the Mechanism.

II. Background

2. On 22 December 2010, the Security Council adopted resolution 1966 (2010), by which it established the International Residual Mechanism for Criminal Tribunals. In doing so, the Council acknowledged the contributions made by the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda to international criminal justice and accountability for serious international crimes, and reaffirmed the necessity for all persons indicted by the Tribunals to be brought to justice. The Mechanism is tasked with continuing the jurisdiction, rights and obligations and essential functions of the two Tribunals following the completion of their respective mandates. In this regard, the Council emphasized that the Mechanism should be a small, temporary and efficient structure. The Mechanism comprises two branches. One branch, which commenced operations in Arusha, United Republic of Tanzania, on 1 July 2012, deals with functions inherited from the International Criminal Tribunal for Rwanda. The other branch, which is located in The Hague, the Netherlands, assumed responsibility for functions and activities devolved from the International Tribunal for the Former Yugoslavia on 1 July 2013. By its resolution 2038 (2012), the Council decided to appoint the Prosecutor of the International Criminal Tribunal for Rwanda, Justice Hassan Bubacar Jallow as Prosecutor of the Mechanism with effect from 1 March 2012.

3. The reporting period was one of much activity for the two branches of the Office of the Prosecutor, involving, in addition to both core and ad hoc functions, the setting up of systems and procedures to streamline operations and ensure greater coordination between the branches. The first joint meeting of the branches took place in Arusha during the last week of November 2013. Also during the reporting period, two regulations of the Prosecutor (one entitled "Standards of professional conduct of prosecution counsel" and the other "Requests for assistance by national authorities or international organizations to the Prosecutor") were issued, as was one internal guideline on the disclosure of witness material in response to requests for assistance. In addition, the Office of the Prosecutor prepared a pro forma application for the variation of protective measures, which has been placed on the Mechanism's website to guide requesting authorities when making such applications.

III. Arusha branch of the Office of the Prosecutor of the Mechanism

4. During the reporting period, the Arusha branch of the Office of the Prosecutor of the Mechanism continued to discharge its mandate with respect to both core and ad hoc activities, which include the tracking of fugitives, the rendering of assistance to national authorities, the monitoring of cases referred to national jurisdictions, the updating of the files on fugitives in anticipation of their arrest and the prosecution of an appeal and related litigation before the Appeals Chamber of the Mechanism. The Office continued to receive the support of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda in ensuring a smooth transition of functions and activities.

A. Staffing

5. Staff presently on board comprise three Investigators, one Crime Analyst and two Language Assistants, all based in Kigali, as well as one Senior Legal Officer, one Legal Officer, one Legal Adviser, two Documents Control Assistants and three Administrative Assistants, stationed in Arusha. Recruitment for the post of Administrative Officer is complete and the selected candidate is expected to assume office on 1 June 2014. In addition, the recruitment processes for the positions of Special Assistant to the Prosecutor (P-4), and of Investigator (P-4), are in advanced stages of completion. The Prosecutor has formally designated the staff of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda to double-hat for the Office of the Prosecutor of the Mechanism in these two positions in the meantime. In order to ensure a smooth transition of functions and activities, this staff complement has been supported, where necessary, by 31 double-hatted staff in the Professional category at the Office of the Prosecutor of the International Criminal Tribunal for Rwanda designated by the Prosecutor under article 14 (3) of the statute of the Mechanism, as an interim measure.

6. As previously reported, an ad hoc appeals team consisting of one Senior Appeals Counsel, one Appeals Counsel, one Assistant Appeals Counsel and one Associate Appeals Counsel is in place to handle the appeal against judgement and sentence before the Appeals Chamber of the Mechanism in the case of *Prosecutor v. Augustin Ngirabatware*. The Prosecutor is also preparing a roster of potential staff for his office, in the event of an arrest and subsequent trial, in accordance with article 14 (5).

B. Ad hoc functions

1. Fugitive tracking and trial readiness

7. Pursuant to Security Council resolution 1966 (2010), the responsibility for tracking the remaining fugitives from the International Criminal Tribunal for Rwanda devolved to the Mechanism on 1 July 2012, with the arrest and prosecution of the three top fugitives being a key priority of the Office of the Prosecutor of the Mechanism. The Office is also required, under article 28 (3) of its statute, to render assistance, where appropriate, in the tracking of the other six fugitives whose files were referred to the national authorities of Rwanda.

8. In this regard, the Office of the Prosecutor has continued to intensify its efforts to track the top three fugitives, namely Félicien Kabuga, Protais Mpiranya and Augustin Bizimana, with particular focus on the Great Lakes and Southern African regions, where the Office has actively engaged with Member States and regional

blocs, calling upon them to step up their efforts in searching for the fugitives in their respective territories in compliance with their international obligations. The Office continues to receive the support of the International Criminal Police Organization (INTERPOL) and the Department of State of the United States of America, through its War Crimes Rewards Program, to supplement its efforts. The Office acknowledges with much appreciation the Council's call upon all States, renewed in its resolution 2150 (2014), to cooperate with the International Criminal Tribunal for Rwanda and the Mechanism in the arrest and prosecution of the nine remaining fugitives.

9. With regard to the six cases that have been referred to Rwanda involving the fugitives Charles Sikubwabo, Fulgence Kayishema, Ladislas Ntaganzwa, Aloys Ndimbati, Charles Ryandikayo and Phénéas Munyarugarama, the Office of the Prosecutor, in conjunction with INTERPOL and the Office of Global Criminal Justice of the State Department of the United States, continues to lend support to the tracking efforts of Rwanda, when required to do so.

2. Appeal and post-appeal proceedings

10. During the reporting period, the ad hoc appeals team assumed primary responsibility for defending the *Ngirabatware* trial judgement on appeal. Briefing in connection with this appeal was completed and the appeals team continued to prepare for oral arguments, tentatively scheduled in the first half of 2014. Two status conferences were convened, on 8 November 2013 and 12 February 2014, by the pre-appeal judge. On 5 March 2014, the pre-appeal judge also dismissed in its entirety Mr. Ngirabatware's request for stay of deadline to seek leave to call 13 witnesses or to present their statements in lieu of oral testimony as additional evidence on appeal pursuant to rule 142 of the Rules of Procedure and Evidence. Three other motions filed by Mr. Ngirabatware for the admission of additional evidence on appeal remain pending.

11. The Office of the Prosecutor also responded to and litigated post-conviction requests filed by Eliezer Niyitegeka and Gérard Ntakirutimana. Mr. Niyitegeka filed three motions, all of which were dismissed by the single judge of the Mechanism during the reporting period. The motion filed by Mr. Ntakirutimana remains pending. In addition, the Office responded to two applications for early release and an application for the disclosure of certain documents filed by three convicted persons.

12. The Office of the Prosecutor of the Mechanism continued to engage in joint initiatives with the Office of the Prosecutor of the International Criminal Tribunal for Rwanda, including completion of a best practices manual on the investigation and prosecution of sexual and gender-based violence, the development of a best practices manual on the referral of international cases to national jurisdictions and creating an account of the Rwandan genocide based on facts adjudicated in the judgements of the Trial and Appeal Chambers of the Tribunal.

C. Continuing functions

1. Assistance to national jurisdictions

13. During the reporting period, the Office of the Prosecutor responded to 51 requests for assistance from 10 Member States and international organizations, including assistance in hosting a delegation from a national prosecuting authority. The process of responding to requests for assistance has involved the search,

identification, review and analysis of relevant material on evidence and information databases of the Office, seeking witness or confidential provider consent and/or the application for variation of protective measures prior to disclosure of any documents, where necessary.

2. Preservation and management of archives

14. The handing over of records of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda continued. During the reporting period, the Office transferred 225 boxes of documents relating to five completed cases to the Mechanism Registry Archive. In the coming months, the Office of the Prosecutor of the Tribunal will transfer to the Office of the Prosecutor of the Mechanism documents in five completed cases. These files will continue to be managed by the Office of the Prosecutor of the Mechanism as part of its continuing activities. The Office of the Prosecutor of the Tribunal is also focusing on updating evidence and information databases in order to transfer, at the end of the Tribunal's mandate, updated databases to the Office of the Prosecutor of the Mechanism to support any future trials and appeals and the efficient servicing of requests for assistance.

3. Monitoring of cases transferred to national jurisdictions

15. The Office of the Prosecutor continued to monitor progress in all referred cases, i.e. the cases of Laurent Munyeshyaka and Wenceslas Bucyibaruta, which were transferred to France in 2007, and those of Jean Uwinkindi and Bernard Munyagishari, which were transferred to Rwanda in 2012 and 2013 respectively. Substantial progress has been achieved in the pretrial phase of the *Munyeshyaka* proceedings, in France, which is now expected to be concluded by the end of 2014, with any possible trial expected to commence and be concluded by the end of 2015. In the *Bucyibaruta* proceedings, it is expected that the pretrial phase will be concluded by the end of 2015, with any possible trial anticipated to commence and be concluded by the end of 2016.

16. During the reporting period, commencement of the trial of Jean Uwinkindi in Rwanda was delayed owing to preliminary objections from the defence against the indictment and a proposed system for the payment of defence legal aid. Those matters were resolved and trial commenced at the Rwandan High Court on 14 May 2014, as scheduled. The case against Bernard Munyagishari, on the other hand, is still in pretrial proceedings before the Rwandan courts. The High Court ordered that the trial be conducted in Kinyarwanda and that Munyagishari be assigned a French-language interpreter throughout the proceedings. The Rwandan prosecution was also ordered to and is in the process of translating the indictment into French. Requests for revocation of the referral to Rwanda filed by Uwinkindi and Munyagishari were dismissed by the President of the Mechanism on 12 and 13 March 2014 respectively.

IV. The Hague branch of the Office of the Prosecutor of the Mechanism

17. The branch of the Office of the Prosecutor of the Mechanism in The Hague is fully functional and has continued to discharge its mandate with respect to both core and ad hoc activities, which include rendering assistance to national authorities and responding to review applications. Throughout the reporting period, the Office

benefited immensely from the support of the Registry and the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia in ensuring a smooth transition and the continuation of functions and activities. Likewise, the staff of the branch of the Office of the Prosecutor of the Mechanism in The Hague have continued to assist the Office of the Prosecutor of the Tribunal on different issues. Notably, efforts have been made to facilitate the transfer of records from the Office of the Prosecutor of the Tribunal to the Office of the Prosecutor of the Mechanism.

A. Staffing

18. The branch of the Office of the Prosecutor of the Mechanism in The Hague is almost fully staffed. The core staff are based in The Hague and consist of one Senior Legal Officer/Officer-in-Charge, one Legal Officer, one Legal Adviser, one Investigator, one Analyst, two Document Managers, one Case Manager, one Personal/Administrative Assistant and one Administrative Assistant. A second Legal Adviser post is currently under recruitment and is expected to be filled by mid-2014.

19. In addition, the ad hoc appeals team consisting of one Senior Appeals Counsel, two Assistant Appeals Counsel and one Associate Appeals Counsel is now in place to handle appeals against judgement and sentence before the Appeals Chamber of the Mechanism. While preparing to deal with the first appeal that will be filed before the Mechanism, these staff members continue to engage in joint research and litigation activities with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia.

B. Ad hoc functions

1. Contempt proceedings

20. The branch of the Office of the Prosecutor of the Mechanism in The Hague responded to an application for contempt investigations against a State's government employees filed by the accused Radovan Karadžić over which the International Tribunal for the Former Yugoslavia declined jurisdiction in favour of the Mechanism. The Mechanism's single judge denied the application.

2. Appeals proceedings

21. The ad hoc appeals team of the Office of the Prosecutor of the Mechanism remains actively seized of developments in the case of Vojislav Šešelj, in anticipation of an appeal being filed with the Mechanism upon delivery of judgement. Following the disqualification of one of the judges of the *Šešelj* Trial Chamber, another judge was assigned. The accused filed an interlocutory appeal against the decision to continue proceedings with the newly assigned judge that is pending before the Appeals Chamber.

3. Review proceedings

22. During the reporting period, the branch of the Office of the Prosecutor of the Mechanism in The Hague responded to an application for review filed by Milan Lukić, who was sentenced to imprisonment for life by the International Tribunal for the Former Yugoslavia. The application was based on the alleged existence of new facts justifying review of the final judgement against him. The review application is before the Appeals Chamber of the Mechanism.

C. Continuing functions

1. Assistance to national jurisdictions

23. As already reported, the servicing of requests for assistance from national authorities, international organizations and other authorities in relation to cases before the International Tribunal for the Former Yugoslavia was moved to the branch in The Hague starting on 1 July 2013, with exception of requests relating to ongoing cases. During the reporting period, the Office of the Prosecutor received 121 requests for assistance from six Member States and one international organization. The number of requests for assistance is higher than was anticipated in the budget. The Office of the Prosecutor of the Mechanism continues to cooperate closely with liaison prosecutors from Bosnia and Herzegovina, Croatia and Serbia who are embedded within the Office of the Prosecutor of the Tribunal. Responding to these requests for assistance has included locating relevant evidence, certifying documents, contacting witnesses, responding to national applications for variation of protective measures and seeking the consent of rule 70 providers for the disclosure of restricted materials. As a result, the branch of the Office in The Hague has filed nine submissions in relation to motions by requesting authorities for access to confidential witness information and evidence for more than 30 witnesses. It has also assisted the Registry of the Mechanism with the identification of exhibits related to a particular witness.

2. Requests from the Registrar of the Mechanism relating to the enforcement of sentences

24. In order to assist the President in designating the State where a person accused by the International Tribunal for the Former Yugoslavia may serve his or her sentence of imprisonment, the branch in The Hague has provided the Registrar of the Mechanism with information regarding cooperation between the Office of the Prosecutor and five accused persons. In addition, the branch in The Hague provided, in response to requests by the Registrar, submissions regarding its intention to call two accused persons as witnesses in future proceedings before the Tribunal or the Mechanism.

3. Preservation and management of archives

25. The branch of the Office of the Prosecutor of the Mechanism in The Hague is working with the Office of the Prosecutor of the Tribunal to prepare for the handover of records and documents from the Office of the Prosecutor of the Tribunal to the Office of the Prosecutor of the Mechanism.

V. Conclusion

26. The reporting period continued to be one of much activity: the two branches of the Office of the Prosecutor are now firmly established and fully functional. The commitment and cooperation extended to the Office of the Prosecutor by both Tribunals has been instrumental in ensuring a relatively smooth transition of functions and activities, and the Prosecutor is particularly grateful for the support of the staff of the Tribunals, who continue to serve both the Mechanism and the Tribunals, as and when required.